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**BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON**

IN RE COMPLIANCE	)	PDC CASE NO.: 01-134
WITH RCW 42.17	)	
	)	<b>FINAL ORDER IMPOSING FINE</b>
PROTECT OUR PETS AND WILDLIFE	)	
	)	
Respondent.	)	
_____	)	

**INTRODUCTION**

This matter came before the Washington State Public Disclosure Commission (Commission) on January 28, 2003 for final adjudication. The deliberations were held at the Evergreen Plaza Building, Room 206, 711 Capitol Way South, Olympia, Washington. This order is entered as a result of that hearing.

**Procedural History**

On October 20, 2000, the Commission received a complaint that stated, in part, that the Respondent Protect Our Pets and Wildlife, a registered political committee, allegedly failed to properly report the purchase of time for running television ads in support of Initiative 713, which was on the statewide election ballot in 2000. The complaint was investigated by Commission staff, and the investigation found that Respondent failed to timely file orders placed for broadcast political advertising during the 2000 election. This matter was scheduled for a brief enforcement hearing (adjudicative proceeding) pursuant to

1 RCW 34.05.482 – 34.05.494 and WAC 390-37-140 – 390-37-144 on October 18, 2001 to  
2 determine whether the Respondent failed to timely report obligations, which would  
3 constitute a violation of RCW 42.17.080 and 42.17.090. The Presiding Officer,  
4 Commission Chair Christine Yorozu, considered the July 1, 2001 Report of Investigation  
5 and heard argument from the parties through Commission staff and Respondent’s attorney  
6 Shawn Newman. She continued the October 18 hearing to November 1, 2001, instructing  
7 Commission staff to further investigate broadcast advertising placement and cancellation  
8 policies.

10 The brief enforcement hearing was re-convened on November 1, 2001, with Chair  
11 Yorozu presiding, at which time the October 30, 2001 “Staff addendum to report of  
12 investigation” was considered but no testimony or additional evidence was taken. The  
13 parties were represented by Commission staff and Mr. Newman. After due consideration,  
14 the Chair referred the case to the full Commission for a full enforcement hearing  
15 (adjudicative proceeding).

17 That hearing was held on January 22, 2002. The Respondent appeared through its  
18 counsel, Mr. Newman. Linda Dalton, Senior Assistant Attorney General, represented the  
19 Commission staff. The staff presented evidence and testimony from Commission  
20 Investigator Suemary Trobaugh as to the sequence of actions taken by the Respondent and  
21 its agent, Fenn & King, regarding television spots run in support of Respondent’s  
22 campaign positions on Initiative 713. The Respondent presented no evidence at the January  
23 22, 2002, hearing other than the cross-examination of the Investigator. At the conclusion of  
24 the matters presented, the Commission continued the full enforcement hearing to February  
25 26, 2002, and requested briefing to be filed by the parties, prior to that hearing, concerning  
26

1 the question of whether certain actions by the Respondent were reportable expenditures  
2 under RCW 42.17.090, 42.17.020(19), 42.17.080(2), WAC 390-16-041, and WAC 390-16-  
3 205.

4 At its regular meeting in the PDC offices in Olympia, Washington, on February 26,  
5 2002, the Commission re-convened the hearing and reviewed the record in this case,  
6 including the January 15, 2002 Staff Memo to the Commission, with attachments that  
7 included, among other items, the July 1, 2001 Report of Investigation, the October 30, 2001  
8 Addendum to the Report of Investigation, the December 13, 2001 Addendum to Report of  
9 Investigation, the written briefing by the Staff's attorney ("Commission Staff Closing  
10 Brief") and the written briefing by the Respondent's attorney ("Protect Our Pets Briefing on  
11 Statutory Argument"). In addition, the Commission considered the parties' oral arguments.  
12

13 By a vote of 4-0, the Commission found apparent multiple violations of RCW  
14 42.17.080 and 42.17.090 by the Respondent. The Commission found its penalty authority  
15 inadequate for this case and referred the matter to the Washington State Attorney General  
16 pursuant to RCW 42.17.360, 42.17.395, and WAC 390-37-100. By referral order dated  
17 March 7, 2002, the Commission further requested the Attorney General's Office to return  
18 the case to the Public Disclosure Commission for further consideration if the Attorney  
19 General's Office declines to file a complaint against the Respondent in Superior Court  
20 based upon the apparent violations or if the Attorney General's Office does not enter into a  
21 settlement with Respondent for the apparent violations.  
22

23 The Attorney General's staff reviewed the facts of the case, legal issues and status  
24 of the Respondent committee and by letter dated November 22, 2002, returned the matter to  
25 the Commission for final adjudication.  
26

1 **Final Adjudication**

2 The final adjudication occurred before the full Commission at its January 28, 2003  
3 meeting, at which time the Commission considered the entire record previously developed  
4 in this case (including but not limited to the transcript of the prior hearings before the full  
5 Commission, written investigation reports and attachments, staff memoranda, and briefs of  
6 the parties). This order is entered as a result of that hearing. By a vote of 5-0, the  
7 Commission found the Respondent committed multiple violations of RCW 42.17.080 and  
8 42.17.090, and ordered a penalty to be imposed.  
9

10 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11 Based on the record submitted in this matter, the Commission unanimously finds as  
12 follows:  
13

- 14 1. The Respondent registered as a political committee in October 1999 for the purpose  
15 of supporting Initiative 713, a state-wide initiative to make it a gross misdemeanor  
16 to capture certain animals with certain body-gripping traps and poisons. Initiative  
17 713 appeared on the November 2000 ballot.
- 18 2. The Respondent was subject to the campaign reporting requirements of chapter  
19 42.17 RCW, including specifically RCW 42.17.080 and 42.17.090 after it elected  
20 “full reporting” at the time of its registration.  
21
- 22 3. The Respondent, in 1999, engaged the services of Fenn & King to handle political  
23 advertising in support of the Initiative. The Respondent received services from  
24 Fenn & King beginning in July 2000 but failed to report this obligation until  
25 October 26, 2000, at which time the C-4 report listed a \$535,205 payment to Fenn &  
26 King for a TV Media Buy, without any elaboration. The October 26, 2000 C-4 was

1 amended on November 3, 2000, and reduced the expenditure to Fenn & King to  
2 \$500,150. In its amended C-4 report, the Respondent stated that its obligation to  
3 Fenn & King was incurred on August 31, 2000. The amendment also listed a  
4 station-by-station breakdown of expenditures for television ads.  
5

6 4. In the following instances, “offers to purchase” made by Fenn & King on behalf of  
7 the Respondent to various television stations constituted “orders placed” and were  
8 reportable as obligations on the next required C-4 report, on the attached Schedule  
9 B: KOMO TV (September 1, 5, 14, 2000); KAPP TV (September 9, 2000); KIRO  
10 TV (September 12, 2000 as well as invoices); KHQ TV (September 29, 2000)<sup>1</sup>;  
11 KNDO TV (October 2, 2000); KIMA TV (October 15, 2000); KING TV (August  
12 31, 2000)<sup>2</sup>; and KNDO TV (October 18, 2000). The following stations indicated  
13 that all activities constituted “offers to purchase”: KXLY TV (September 9, 2000)  
14 and KREM TV (September 1, 2000). These “orders placed” were obligations under  
15 RCW 42.17.090(1) and reportable expenditures under RCW 42.17.020(19) and  
16 WAC 390-16-205 that were not timely reported on the form required at WAC 390-  
17 16-041 pursuant to RCW 42.17.080(2) and 42.17.090(1).  
18

19 5. All payments to the stations began on October 18, 2000 for spots scheduled to begin  
20 airing on October 20, 2000. This payment activity was initially reported as a single  
21 payment to Fenn & King on October 26, 2000, but should have been reported as  
22 separate payments to each television station. This payment activity was amended  
23 on November 3, 2000 when the Respondent listed a station-by-station breakdown of  
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26 <sup>1</sup> KHQ sent confirming emails acknowledging receipt of the orders.

<sup>2</sup> KING TV ultimately cancelled the order based on the content of the ads. The Ads were later resubmitted and run in November 2000.

1 expenditures for television ads. This untimely reporting of payments to individual  
2 television stations was a violation of RCW 42.17.080(2).

3 6. In summary, the Respondent committed multiple violations of RCW 42.17.080 and  
4 42.17.090 by failing to timely report to the Commission an obligation to Fenn &  
5 King in excess of \$500,000 for handling its political advertising. In addition, the  
6 Respondent failed to timely report obligations for “orders placed” with various  
7 television stations for media buys, and failed to timely report its payments to  
8 individual television stations for the purchase of time to air its television ads.  
9

10 **ORDER**

11 Based upon the above findings and conclusions, the Commission orders as follows. The  
12 Respondent is assessed a total civil penalty of \$2,500.  
13

14 **RECONSIDERATION**

15 Any party may ask the Commission to reconsider this final order. Parties must  
16 place their requests for reconsideration in writing, include the specific grounds or reasons  
17 for the request, and deliver the request to the Public Disclosure Commission Office within  
18 TEN (10) days of the date that the Commission serves this order upon the party. Service is  
19 defined as date of mailing under RCW 34.05.010(19), or upon personal service. Pursuant  
20 to RCW 34.05.470(3), the Public Disclosure Commission is deemed to have denied the  
21 petition for reconsideration if, within twenty (20) days from the date the petition is filed, the  
22 Commission does not either dispose of the petition or serve the parties with written notice  
23 specifying the date by which it will act on the petition. Pursuant to RCW 34.05.470(5), the  
24 Respondent is not required to ask the Public Disclosure Commission to reconsider the final  
25 order before seeking judicial review by a superior court.  
26

1 **APPEAL RIGHTS**

2 Pursuant to RCW 42.17.395(5), a final order issued by the Public Disclosure  
3 Commission is subject to judicial review under the Administrative Procedure Act, chapter  
4 34.05 RCW. Pursuant to RCW 34.05.542(2), a petition for judicial review must be filed  
5 with the superior court in Thurston County or the petitioner's county of residence or  
6 principal place of business. The petition for judicial review must be filed with the superior  
7 court and served on the Public Disclosure Commission and any other parties within 30 days  
8 of the date that the Public Disclosure Commission serves this final order on the parties.  
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10 If reconsideration is properly sought, the petition for judicial review must be served  
11 on the Public Disclosure Commission and any other parties within thirty (30) days after the  
12 Commission acts on the petition for reconsideration. The Commission will seek to enforce  
13 this final order in superior court under RCW 42.17.395-.397, and recover legal costs and  
14 attorney's fees, if the penalty remains unpaid and no petition for judicial review has been  
15 filed under chapter 34.05 RCW. This action will be taken without further order by the  
16 Commission.  
17

18 DATED THIS 7<sup>th</sup> day of February, 2003.  
19

20 FOR THE COMMISSION:

21 /s/

22 \_\_\_\_\_  
23 VICKI RIPPIE, Executive Director

24 *Copies to be provided to:*

24 Linda A. Dalton, Senior Assistant Attorney General  
25 Counsel for Commission Staff  
25 Nancy Krier, Assistant Attorney General  
26 Counsel for Commission  
26 Shawn Newman  
Counsel for Protect our Pets and Wildlife